



LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 22-CRB-0007-AU (Sirius XM)]

Notice of Intent to Audit

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Public notice.

SUMMARY: The Copyright Royalty Judges announce receipt from SoundExchange, Inc., of notice of intent to audit the 2019, 2020, and 2021 statements of account submitted by Sirius XM Radio Inc.'s Commercial Webcaster service, Preexisting Satellite Digital Audio Radio Service, New Subscription Service, and Business Establishment Service concerning royalty payments they made pursuant to two statutory licenses.

ADDRESSES: *Docket:* For access to the dockets to read background documents, go to eCRB at <https://app.crb.gov> and perform a case search for docket 22-CRB-0007-AU (Sirius XM)

FOR FURTHER INFORMATION CONTACT: Anita Brown, (202) 707-7658, crb@loc.gov.

SUPPLEMENTARY INFORMATION: The Copyright Act grants to sound recordings copyright owners the exclusive right to publicly perform sound recordings by means of certain digital audio transmissions, subject to limitations. Specifically, the right is limited by the statutory license in section 114, which allows nonexempt noninteractive digital subscription services, eligible nonsubscription services, and preexisting satellite digital audio radio services to perform publicly sound recordings by means of digital audio transmissions. 17 U.S.C. 114(f). In addition, a statutory license in section 112 allows a service to make necessary ephemeral reproductions to facilitate digital transmission of the sound recording. 17 U.S.C. 112(e).

Licensees may operate under these licenses provided they pay the royalty fees and comply with the terms set by the Copyright Royalty Judges. The rates and terms for the section 112 and 114 licenses are codified in 37 CFR parts 380 and 382-84.

As one of the terms for these licenses, the Judges designated SoundExchange, Inc., (SoundExchange) as the Collective, *i.e.*, the organization charged with collecting the royalty payments and statements of account submitted by licensees, including those that operate commercial webcaster services, preexisting satellite digital audio radio services, new subscription services, and those that make ephemeral copies for transmission to business establishments. The Collective is also charged with distributing the royalties to the copyright owners and performers entitled to receive them under the section 112 and 114 licenses. *See* 37 CFR 380.4(d)(1), 382.5(d)(1), 383.4(a), 384.4(b)(1).

As the Collective, SoundExchange may, only once a year, conduct an audit of a licensee for any or all of the prior three calendar years to verify royalty payments. SoundExchange must first file with the Judges a notice of intent to audit a licensee and deliver the notice to the licensee. *See* 37 CFR 380.6(b), 382.7(b), 383.4(a) and 384.6(b).

On November 1, 2022, SoundExchange filed with the Judges a notice of intent to audit Sirius XM Radio Inc. for the years 2019, 2020, and 2021.¹ The Judges must publish notice in the *Federal Register* within 30 days of receipt of a notice announcing the Collective's intent to conduct an audit. *See* 37 CFR 380.6(c) 382.7(c), 383.4(a) and 384.6(c). This notice fulfills the Judges' publication obligation with respect to SoundExchange's November 1, 2022 notice of intent to audit Sirius XM Radio Inc. for the years 2019, 2020, and 2021.

Dated: November 23, 2022.

¹ The notice does not include an intent to audit statutory license payments made by Pandora Media, LLC or its predecessor company, Pandora Media, Inc.

David P. Shaw,

Chief Copyright Royalty Judge.

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